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LAND-GRANT UNIVERSITIES AND ACCESS IN THE MILLENNIUM: A MANDATE TO RE-CAPTURE SERVICE OPPORTUNITIES IN UNDER-REPRESENTED COMMUNITIES

Stephanie Y. Brown*

INTRODUCTION

In 1995, the District of Columbia School of Law merged with the University of the District of Columbia. That union afforded the previously free standing law school many of the traditional benefits enjoyed by university affiliated law schools\(^1\) nationally and broadened the university's ability to address the educational aspirations of District residents. It also challenged both institutions to consider and address the missions and function of the other institution and the concomitant change in community expectation that the merged institution inspired. While the public interest and community service history of the law school could obscure the need for such inquiry, University leadership responding to community query challenged students, faculty and administrators to initiate a formal inquiry into the land-grant character of the mission.\(^2\)

* The author is an associate professor of law at the University of the District of Columbia School of Law David A. Clarke School of Law in the District of Columbia. The University is both a historically black and land-grant university. This article honors those who have chosen to serve the under-represented and to do so without regard to the personal cost of living their convictions. Special thanks to Linwood E. Hobbs for his service to nearly two decades of lawyers in training. The Author also thanks Mildred E. Bailey, a bridge to information and knowledge for a community of educators, students and jurists. Their support and example have enhanced the expectation and performance of those entrusted to their professional care. The Author is particularly indebted to Robert Maxwell, law student, UDC David A. Clarke School of Law, for his steadfast and painstaking research and editorial support.

1 The University of the District of Columbia is located on an attractive urban campus in the heart of the District of Columbia. It affords a quality education at a moderate cost to residents of the District of Columbia and surrounding metropolitan area. As the higher education authority for the District of Columbia, the university coordinates specialized services for the public education system in the District. Through the extension services, it provides a modest range of certificate and licensing programs. The University hosts a broad range of international students, while reaching out to the working and more mature first-time student. As both an agency of the District government and state school equivalent, the University partners with other public agencies to broaden the range of available services throughout the District. In addition, the University studies the varied social, political and economic problems that touch the District community. The University is truly "one of the District's best kept secrets." A Historically Black Institution, it often receives less than enthusiastic support for the considerable contribution it continues to make in the broad spectrum of educational services available in the nation's capital.

2 In April 2005, the Honorable William A. Pryor Chapter of the Black Law Students Association (BLSA) at the David A. Clarke School of Law hosted a paper symposium exploring the University's land-grant status. Prominent scholars from UDC and other national universities, including
This article was written in response to a call for papers and symposium examining the University's land-grant status. Former University of the District of Columbia (UDC) President William Pollard inspired this conversation among law faculty and students, university administrators, and community leaders. The issue was the timely focus on law school responsiveness to the University's land-grant status and the national call for land-grant institutions to recommit to their original legislative purpose. Part I of the Article reviews the historical and contemporary role of land-grant institution in American higher education. Part II will explore the significance of land-grant status and those aspects of the designation that pose the greatest challenge for a previously free-standing law school accredited by the American Bar Association. Part III explores community need and the practical consequences of conforming the law school more directly to the University's land-grant mission.

I. Land-grant Institutions and Educational Access

A. A Historical Perspective

"We come to college not alone to prepare to make a living, but to live a life . . .."3

The land-grant institution is an example of American ingenuity at its very best. A unique amalgamation of local, state, and federal programs and priorities, land-grant institutions are reputed to provide high quality, post-secondary educational opportunity and a laboratory cultivating social and economic progress at a modest cost.4 Without regard to socioeconomic status, the land-grant institution offers each citizen the opportunity to achieve his or her personal best thereby contributing to the betterment of the community and the nation.5 In the one hundred forty plus years that land-grant institutions have existed, world class colleges and universities have evolved from once modestly funded organizations located in rural settings.6 Once focused on metallurgy, military science, and agriculture, the


5 Id.

6 Id.
course of study at most land-grant institutions has progressed to include formal, professional training to credential every discipline needed to serve the respective community and national need.\(^7\) With periodic legislative prodding, and a steady stream of social, economic, and political crisis, land-grant institutions contributed to an ever broadening of scientific knowledge and ability, economic growth, and social change.\(^8\) Cures to dreaded diseases, technological advancement, and educational opportunity for ethnic and racial minorities are among the many accomplishments achieved by land-grant institutions.\(^9\) The legislative prodding that has stimulated the development of the land-grant institutions has been critical and varied. A brief review of the legislation follows.

In its initial effort to provide basic skills training and educational opportunity, Congress enacted the Morrill Act ("the Act") in 1862.\(^10\) Through the Act loyal Congressional representatives secured land-grant designation and 30,000 acres of public land for their respective states.\(^11\) States were then free to sell the land and use the proceeds to fund the establishment and operation of colleges.\(^12\) Congress intended to provide practical education for technical and professional careers opportunity for the ordinary citizen.\(^13\) Training in agriculture, mechanical arts, and the professions would be routinely available without regard to social standing and financial means.\(^14\) At a time when the Civil War devoured the nation's economic and human resources and less than one percent of the population had college training, the decision to fund public education on a national level was easily one of the more creative ways available to commence rebuilding the nation.\(^15\) Though the nation wobbled near the brink of social and economic bankruptcy, the Morrill Act also provided a unique opportunity to address the economies and social difficulties of each community without sacrificing its unique character.

\(^7\) Id.
\(^8\) Id.
\(^11\) Id. at ¶ 9.
\(^12\) Id.
\(^13\) Id. at ¶ 11.
\(^14\) Id. at ¶ 12.
The original legislation created sixty-nine institutions of higher education. In subsequent enactments, Congress made comparable investments to strengthen breadth of programming and the communities supported by public education. In 1890 the Congress expanded this effort to address the needs of the African American community. The second Morrill Act established seventeen institutions that served African Americans and supplemented funding for the original institutions. While the initial enabling legislation proscribed denial of any citizen's admission, most states segregated white and black students. The resulting seventeen new institutions admitted black students, and were among the first institutions to be known as Historically Black Colleges and Universities (HBCU).

In 1914, Congress passed the Smith-Lever Act creating what would become the Cooperative Extension Service. This provided a formal connection between governmental research and the educational functions and the land-grant institutions. Thus the United States Department of Agriculture and state and local governments provide funding and research and education management support to the land-grant universities. The extension service developed as a result of the beneficial dissemination of information throughout the community that accompanied university efforts to provide informational support to the residents of rural communities. The success of these unique institutions has encouraged other congressional educational initiatives to support varied educational need.

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16 Id. at ¶ 12.
19 Id.
20 Id.
22 See NORTH DAKOTA STATE UNIVERSITY, supra note 18.
23 See NORTH DAKOTA STATE UNIVERSITY, supra note 18.
24 See OFF. OF PUBLIC AFFAIRS OF THE NAT’L ASS’N OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES, THE LAND-GRANT TRADITION, available at www.uwex.edu/ces/depthead/pdf/landgranttrad.pdf; See also Federal Milestones in the Development of the Land-Grant University System and the Cooperative Extension Service, available at http://www.ext.colostate.edu/staffres/handbook/sec1-legislate.pdf; PUB. BROADCASTING POLICY BASE, supra note 10. It should be mentioned that there are institutions that have acquired proficiency in meeting the needs of Hispanic Americans. These institutions were not specifically chartered to meet the needs of the Hispanic population, however. Typically Hispanic enrollment in these institutions reached at least twenty-five percent before the institution is considered a Hispanic Serving Institution (HSI). Hispanic Association of Colleges and Universities (HACU), Membership Information, http://www.hacu.net/hacu/Membership_Information_EN.asp?SnID=1106945914. There are approximately 223 of these institutions and they enjoy land-grant status. HACU, Member Hispanic-Serving Institutions, http://www.hacu.net/assnfe/CompanyDirectory.asp?STYLE=2&COMPANY_TYPE=1,5&SEARCH_TYPE=0. Additionally, the Equity in Educational Land-Grant Status Act of 1994 conferred land-grant status on twenty-nine Native American institutions. Pub. L. No. 103-382, 108 Stat. 4048 (1994) (codified at 7 U.S.C. § 301
B. *The District of Columbia's Urban Land-Grant: Beginnings and Underdeveloped Potential*

The University of the District of Columbia is the product of four distinct institutions merged into one. The first of those institutions, the District of Columbia Teacher’s College was established in 1851 as the Minor Normal School, a “school for colored girls.” The Wilson Normal School, a school originally for white females, and the Minor Normal school merged in response to the Supreme Court’s annunciation ending segregation. The resulting institution, District of Columbia Teachers College, was the only four year public institution of higher education in the District of Columbia.

In 1966, in response to community concern, Congress enacted the Public Education Act which established Federal City College, a four year liberal arts institution and Washington Technical Institute, a two year, vocational college. These institutions received land-grant status. Each focused on educational programs and solving urban problems. In 1977, the District of Columbia Teacher's Col-

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(1996)). These institutions are located in remote areas void of other post-secondary institutions. They contribute to servicing the unique needs of the Native American community through efforts to preserve their culture, develop economic security, and exercise their sovereignty. The Educational Television Facilities Act of 1962 provided matching grants for public institutions. Pub. L. No. 87-447 (1963). These federal dollars supported construction of educational television stations. POLICYBASE, *supra* note 10. As of the fall of 2004, 175 educational televisions operated 345 transmitters across the fifty states, Guam, American Samoa, Puerto Rico, and the Virgin Islands. HARTFORD GUNN, *supra* note 15, at ¶ 22. Educational television has contributed to the quality of education in traditional elementary and secondary classrooms, college campuses, and in business and technical settings. Satellite broadcasting, interactive distance learning, captioning for the hearing-impaired, and digital transmission are among the telecommunications innovations influenced by or resulting from the Educational Television Facilities and Public Broadcasting Act of 1967. See 47 U.S.C. § 396 (2003). The later enactment added to the number of public television educational resources available nationally, funding this evolving aspect of education poses a unique challenge. Digital technology represents a further national asset available to support the broadening of educational opportunity. The federal government auctioned licenses for wireless communication; the sale generated nearly $6 billion dollars. See generally R. Preston McAfee & John McMillan, Analyzing the Airwaves Auction, 10(1) *J. Econ. Persp.* 159-75 (1996). Should further licensing occur, an additional $132 billion could be generated. Given the reduction in federal, state, and local funding, public education would benefit significantly by the infusion of capital gleaned from the sale or auction of licenses for portions of the electromagnetic spectrum.


26 Id.
27 Id.
28 Id.
29 Id. at ¶ 16.
lege, Federal City College, and Washington Technical Institute merged and began to do business as the University of the District of Columbia (UDC).\textsuperscript{31} In 1995, the District of Columbia School of Law merged with the University.\textsuperscript{32}

Located in the District of Columbia, the University is the nation's only urban land-grant institution\textsuperscript{33}. Unlike other land-grant institutions, UDC did not receive a grant of public land.\textsuperscript{34} Instead, the University received a $7.2 million dollar endowment.\textsuperscript{35} The accrued interest on the multi-million dollar endowment funds the university's annual operating budget.\textsuperscript{36} This is significant because the cash nature of this original investment could not provide the flexibility and support enjoyed by the first land-grant institutions. At their inception, fledgling universities, now world class institutions to which UDC is often compared, received grants of land sufficient to support generations of growth and fund operations when other funding was unavailable. District agency status and a complex leadership history have also influenced the unique development of the University.

As a federal district, the District of Columbia is subject to oversight by the United States Congress. That oversight subordinates the judgment and priorities of District residents and officials to the judgment and determination of the elected representatives of other jurisdictions; officials whose interests and values may not coincide with the District's determination of need and problem resolution. This oversight extends to all fiscal and legislative matters.\textsuperscript{37}

While the District provides a host of services to support the federal government, Congress determines the level of federal financial support provided as reimbursement for such services.\textsuperscript{38} Local taxes support the cost of services enjoyed by the federal government and the full cost of supporting what in a state would constitute the local and state share of servicing residents of the District. Because the District is not a state, there is no separate state revenue to support the District budget.\textsuperscript{39} Thus any government funded entitlement, or service like emergency medical assistance, education, recreation, or youth employment is likely to

\textsuperscript{31} Id. at ¶ 20.
\textsuperscript{32} Id. at ¶ 23.
\textsuperscript{33} Id.
\textsuperscript{34} Id. at ¶ 52.
\textsuperscript{36} Id.
\textsuperscript{38} Id.
\textsuperscript{39} Id.
be perpetually underfunded. Finally, District residents have no voting congres-
sional representation.

Leadership as a factor in institutional development and advancement is critical
on several levels. The educational programming must be competent, well organ-
ized, efficiently delivered. The program of education is expected to support the
life progress of student consumers. A public university is a public asset estab-
lished for the community's benefit in perpetuity. There is a level of leadership
whose function is appropriately dedicated to the preservation and cultivation of
the university and its full range of function. Finally, the University's external in-
teraction with other government entities, community members with service
needs, non matriculating citizens and the greater business community requires
oversight and development. While there is some variation among areas of respon-
sibility, there are characteristics common to the leadership qualifications needed
to support University health and progression: respect for the value of the Univer-
sity's unique and legitimate place in the educational continuum; commitment to
realizing the University's potential and mission; use of individual talent and influ-
ence to move University operations, programming, and community contribution
for and from the University in unequivocal terms. Whether at the District official,
Board of Trustees or faculty level, leadership selections have reflected varying
degrees of these commitment, resources, and expectation of ultimate success and
value of the enterprise. The complexity and variability of the resulting leadership
over time is palppal in community and external institutional perception of the
institution and in objective assessment of institutional assessment. Internal Uni-
iversity function leeches some measure of the same toxin.

As a public institution of higher education, UDC is also challenged by many of
the same social, political, and economic concerns that challenge many land-grants
in other urban areas. Budgets have decreased in tandem with the ebb and fall of
public funding and competing priorities. Continuity in educational program has
succumbed to decreased funding, staff reductions and delayed capital expendi-
ture have constrained the expansion of successful programs and the implementa-
tion of modest but refinements calculated to bolster student success and
institutional marketability. Irrespective of these changes local public school

40 Id.
41 Id.
42 Parents United for the D.C. Public Schools, Civic Leader Advisory Comm., Sepe-
rate and Unequal: The Status of the Dist. of Columbia Public Schools Fifty Years After
43 Dr. Andrew F. Brimmer, Chair, D.C. Fin. Responsibility and Mgmt. Assistance Auth.,
Money and Management in the University: Address to the Univ. of the Dist. of Columbia 2-6 (Aug.
44 Id. at 6; See Am. Assoc. of Univ. Professors, Comm. A on Academic Freedom and
Tenure, Univ. of the Dist. of Columbia: Massive Terminations of Faculty Appointments
graduates continue to expect to satisfy their individual and community sensitive educational needs at the University. The community and individual residents need the services from this land-grant institution to persist.

C. The Next Generation Hope of the Millennium

"It is simply service that measures success"45

The historical relationship between education and training as a measure of economic success is complicated and essential components of this country’s response to domestic hardship and social change or progress.46 People from every strata of the population have directly benefitted from public education.47 Extending education to a larger under-represented segment of the community is one of the traditional roles of land-grant institutions.48 In preparation for the millennium and its unique challenges, the Kellogg Commission reviewed land-grants and formally recommended a course of action to ensure relevance in the new century.49 Prominent among those recommendations is commitment anew to the original goals of access to education for all citizens and innovative community service.50 As part of making those commitments, an institution must determine whether access currently exists and the extent to which the institution is currently poised for positive community service and support.51

Inequality of opportunity in higher education persists. Creating opportunity necessitates admission protocols that consistently evaluate candidates using criteria reasonably calculated to successfully identify candidates able to complete the program of study.52 Access also requires support sufficient to permit the full realization of individual potential.53 It is helpful to create a community of individual learners.54 Connection to group, shared interest, and values are essential to self


45 See IOWA STATE UNIVERSITY, supra note 3 (statement by George Washington Carver).


47 Id.

48 Id.


50 Id.

51 Id.

52 Id.

53 Id.

expression and learning from others. Furthermore, the diversity of the study body may also require additional learning resources or flexibility in teaching methodology. Additional institutional restructuring may be required to accomplish these goals. At a minimum, expanding the curriculum, developing a deliberate plan of action, modifying admission and other administrative programs may also be required. The land-grant has partnered successfully with the community and community groups. In order for the partnership to succeed in the millennium, there must be deliberate efforts to fortify existing relationships, as well as a concerted effort to forge new associations. Institutional priorities must reflect a clear and unequivocal commitment to constructive community service.

"Land-grant institutions were created to open opportunity and broaden access . . . Today, this historic commitment must encompass the different educational needs of many . . . from different and ever more diverse backgrounds. Anything short of that is not true access . . ."

II. THE LAW AND RECLAIMING/DEFINING EDUCATIONAL ACCESS: EMBRACING THE LAND-GRANT MISSION

A. The Rule of Law and Access: Fact or Fiction

While we aspire to live in a society where equal protection under law is the norm, the landscape of American law and history is littered with examples of common law, legislation, and application of law that perpetuate inequality. A brief review of significant moments in American jurisprudence will quickly resolve the illusion that the law provides equal protection for all or most Americans.

Prior to 1609, there was no statutory basis for the dispossession of Native American land interests. There was no government apparatus in place to standardize and record land transfers. There were no processes sufficient to legislate the deprivation of vested Native Americans land interests. Native Americans occupied North America and exercised full sovereignty over the land, centuries

55 Id.
56 Id.
57 Id.
58 Id.
60 Id. at 8.
62 Id.
63 Johnson v. McIntosh, 21 U.S. 543 (1823).
64 Id.
65 Id.
before Europeans stumbled into America.66 The Natives were not subjects of the British or subject to Britain in any way.67 A crown declaration, legislative enactment in a neighboring region of the country, or statute promulgated after the granting of the land, were legally insufficient to divest Native Americans of title to the land or void their ability to convey title.68

In the absence of binding precedent, the U.S. Supreme Court in Johnson v. McIntosh69 reasoned that the Native Americans, in their natural state did not constitute “civilized” nations and held no independent right to the land.70 European nations, consumed with colonization, agreed that the discovery principle entitled them to exclusive control of the territories claimed or settled by their respective subjects.71 The rights of indigenous people were extinguished to the extent needed to establish the sovereignty of the respective European power.72 Because the Native people could no more consume or fully use the land than they could harvest the entire sea, the court determined that the Native people had no right to alienate the land.73 While Native American rights were diminished, right to continued use, civilization, Christianity, and “independence” were found to be sufficient compensation for the interests ceded to the Europeans.74 It is difficult to see how the absence of law resulted in a creative imposition of an equal or just result.

While the tripartite nature of the American government was intended to safeguard citizens from the oppressive rule of an elite or single interest group, each branch of government was and continues to be influenced by the political, social and economic sensibilities of the time.75 In McIntosh, Justice Marshall, admitted that thinking, moral people might question the integrity of a determination that sovereign people inhabiting land for centuries could be dispossessed of their property on the whim of a foreign power.76 The right to extinguish Native American rights to control and alienation of that land would appear even more estranged from principles of law and justice when grounded in nothing more than a newly arrived group of foreign people wanting the land.77 He quickly added, however, that the judiciary of the newly forming government would not be the

66 Id. at 564-66.
67 Id.
69 Id.
70 Id. at 567-68.
71 Id. at 568-74.
72 Id.
73 Johnson, 21 U.S. 543, 569-74.
74 Id.
75 Id.
76 Id.
77 Id.
entity to interrupt or prohibit the government from accomplishing its objective.\textsuperscript{78} Thus the Supreme Court in a very clear and bold fashion bowed to political pressure. A judiciary, uniquely positioned to interpret and structure the rule of law, and to fashion a just and equitable outcome, conformed to the political, social and economic will of the government and the governed. The obsession to dispossess the true owners of North American lands was sanctioned by the court.\textsuperscript{79}

Basic notions of fairness and the so called rejection of tyranny of many by a few were hauntingly absent from \textit{McIntosh}. These first findings of the Supreme Court were inconsistent with the noble aspirations that distinguish a democratic nation from other forms of government.\textsuperscript{80} \textit{McIntosh}, instead reflected what would remain the conflicted nature of American democracy, the struggle between an absolute allegiance to protect individual rights and equality in a casteless society.\textsuperscript{81} The struggle continues as America contends with each ethnic and national group added to the cast of contributors. The nature of that conflict has traditionally grown more violent and difficult to moderate when the group asserting their right to inclusion was non-white. This was apparent in the treatment of Native Americans and would be seen in legal battles with each racial and ethnic group that would endeavor to access the benefits of citizenship.

In \textit{Plessey v. Ferguson},\textsuperscript{82} Justice Harlan's dissent defined the expectation and struggle engaged by African Americans of that time.\textsuperscript{83} The American treatment of blacks has involved institutionalizing slavery, i.e. codes regularizing the formal structure of slavery. Once slavery was no longer politically viable, new codes emerged to constrain the citizenship of blacks living outside of slavery. The law was a critical force in creating this system and continues to play a significant role in perpetuating the vestiges of the former system and the concomitant inequality.

The slave codes and freedmen legislation successfully limited the social, political, and economic experience of African Americans.\textsuperscript{84} These codes attempted to control every aspect of Black life. The freedom to travel, freedom of association, proximity to and association with whites, employment opportunity, and economic improvement were among the concerns that prompted state legislators to try and constrain the individual right of blacks.\textsuperscript{85} Despite the end of the Civil War and the abolition of slavery, it was evident that further action would be required to

\textsuperscript{78} Johnson, 21 U.S. 543, 569-74.
\textsuperscript{79} Id.
\textsuperscript{80} Id.
\textsuperscript{82} Plessy v Ferguson, 163 U.S. 537, 557 (1896).
\textsuperscript{83} Id.
\textsuperscript{85} BERLIN, supra note 84, at 316-26; HOPE FRANKLIN, supra note 84, at 140-43.
expose, and subsequently extinguish the legacy of slavery.\textsuperscript{86} The thirteenth amendment proscribed slavery and the fourteenth amendment prohibited interference with the rights and privileges of citizenship on account of race. Each served to clarify the constitutional protection available to blacks.\textsuperscript{87}

Irrespective of these enactments and the flurry of litigation highlighting a continuing national refusal to uphold the law, the majority writing in Plessy v. Ferguson reinforced the legacy of slavery by agreeing that separate but equal was the law of the land.\textsuperscript{88} The fact that blacks could experience comparable accommodation on a train restricted to travel within the state warranted no further intrusion from the government.\textsuperscript{89} The Fourteenth Amendment’s promise of equal protection had been satisfied.\textsuperscript{90} The court would resist meaningful protection of citizenship rights for blacks for more than fifty years.

Brown v. Board of Education\textsuperscript{91} determined that segregation in education was inherently unequal, initiating a new era of pursuing equal protection and rights.\textsuperscript{92} While Brown inspired great hope that segregation would end unequal access to education, the court’s decision to refrain from forced immediate desegregation undermined the potential of Brown.\textsuperscript{93} In the cases spawned by the failure of southern schools to desegregate, the court continued to insist on desegregation while laying the foundation that would imperil and impede future progress.\textsuperscript{94} The court’s concern for the “reconciliation of competing values” or “local autonomy as a vital national tradition” as articulated in subsequent decisions evidenced a waning resolve to desegregate the public schools.\textsuperscript{95} The line of cases that followed Brown would in many instances provide the blueprint for dismantling or adjusting the system of race-based advantage in education.\textsuperscript{96} The federal court could no longer be considered a reliable source fueling the desegregation of education.\textsuperscript{97}

By 1978, the Supreme Court in Regents of University of California v. Bakke\textsuperscript{98} affirmed a state Supreme Court decision proscribing the use of a particular special admission’s program as violative of the fourteenth amendment. Though the

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\textsuperscript{86} U.S. CONST. amend. XIII.
\textsuperscript{87} U.S. CONST. amend. XIV.
\textsuperscript{88} Plessy v Ferguson, 163 U.S. 537, 557 (1896).
\textsuperscript{89} Id.
\textsuperscript{90} Id.
\textsuperscript{91} Brown v Bd. of Educ., 347 U.S. 483 (1954).
\textsuperscript{93} Id. at 1884.
\textsuperscript{94} Derrick A. Bell, Brown v. Board of Education and the Interest-Convergence Dilemma, 93 HARV. L. REV. 518, 527 (1980).
\textsuperscript{95} Id.
\textsuperscript{96} Id.
\textsuperscript{97} Id.
\end{flushleft}
court disqualified the special admission’s program, concurring opinions in the
case were careful to assert that race could be a factor in a narrowly drawn set of
admission criteria. Justices Brennen, White, Marshall and Blackmun found
“Nonetheless, the purpose of overcoming substantial, chronic minority under-
representation in the medical profession is sufficiently important to justify peti-
tioner’s remedial use of race.” Bakke was the first among a growing tide of
cases where white plaintiffs alleged discrimination based on race. Among
these cases would also be successful challenges to the notion that diversity is not a
compelling interest as required by the fourteenth amendment.

Finally, in Grutter v. Bollinger the Supreme Court advanced yet another
interesting, but deeply troubling perspective on race and equal opportunity in
education. While the Court found that the Michigan State Law School admis-
sion’s program did not violate the Fourteenth Amendment, Justice O’Connor
suggested that an admission’s program with diversity as a primary goal should be
time limited. This perspective is particularly noteworthy when reviewing
Brown and the progress made in the desegregation of schools. In the twenty-plus
years between Brown and Bakke, the National Association for the Advancement
of Colored People (NAACP) fought an uphill struggle with southern school ad-
ministrators and a Court sliding back toward “local control.” Given the
Court’s concern for a “vital national tradition,” an apparent return to the status
quo or segregated schools was at least contemplated.

In the time that Grutter found its way to the high court, white flight and ad-
ministrative wrangling by public school boards have led to the return of segrega-
tion in public schools. Diversity has replaced desegregation as an acceptable
goal, and the quality of education available to blacks continues to be inferior to
that available to whites. Unless the national goal is now to preserve segrega-
tion and inferior education for blacks as the “vital national tradition,” to suggest
that there is a short or readily quantifiable time period when diversity will no
longer be an appropriate goal under the Fourteenth Amendment is naive and
irresponsible at the very least.

The final consideration in this section is the role of the individual and rule of
law. The rule of law cannot resolve what at its core is moral dysfunction, indiffer-

99 Id.
100 Id. at 287-321.
101 Id. at 356-80.
102 Barbara Lauriat, Trump Card or Trouble? The Diversity Rationale in Law and Education,
104 Id. at 310.
105 Id.
106 Id.
107 Id.
108 Grutter, 539 U.S. at 310.
ence, or disconnection from society at large. The law can prescribe the perpetuation of systematic conduct intended to and or resulting in denying groups or members of a group access based on group membership. Access is the complex result of several factors: competent programs of study, admission policies, criteria, and selection processes that structure pathways to education, financial support, educational and life supportive environments and strategies. Land-grant universities and particularly law schools situated in land-grant universities are called to actively engage in disabling and dismantling the vestiges of inequality in educational access. There must be a practical and apparent, individually beneficial reason apparent to successfully disturb the status quo. Those accustomed to enjoying the benefits generated by the intentional disadvantaging of others based on race must see a benefit in adjusting the system to function equitably. Individuals unfairly advantaged, socialized to expect unfair advantage often see equitable treatment as imposition, inequality, or reverse discrimination. The effort of intelligent, moral whites will be essential to accomplishing this process.

Scholars have suggested that as America's government became conscious of its world image, some change became necessary. America's refusal to grant blacks equal treatment provided irrefutable proof that America could not be trusted to deal honorably and equitably with other people of color. The foreign media coverage and diplomatic exchange with the international community contributed to the political conclusion that some noteworthy change or modification in America's treatment of blacks was in the nation's best interest. One of the more famous byproducts of international concern was the unanimous decision in Brown. Unfortunately, it might appear as though America no longer believes that the world is looking. An even worse possibility is that the political elite no longer care about how America is viewed by its international neighbors.

The system of advantage has been cloaked in respectability. Ill-gained advantage has been shrouded in the illusions of merit and natural order. Whites have been encouraged to see their perspective as the norm and to see any adjustment that relieves them of leadership or control as aberrant. A progressive thinking white presence and action is needed to address these issues and work to inform whites mired in myth and hypocrisy.

Work with whites will focus on exposing and extinguishing the myths and stereotypes that sustain institutionalized racism. Whites must hold other whites accountable for accepting new perspectives on race and appropriate social interface with non-whites. When interacting with non-whites, this progressive white must

109 Brown, 347 U.S. at 483.
110 Id.
111 Id.
112 Id.
114 Id. at 1730.
grow increasingly comfortable with watching people of color lead and explore the joint undertakings in ways that are not Euro-centric. Consistent with the continuing mission of land-grant universities, the success of such efforts would provide educational leadership and decision-making opportunities to many previously denied such opportunities. The land-grant of the millennium can play a critical role in birthing this level of social and political change. By providing the education, information, and opportunity to acquire practical and professional day-to-day experience living in the targeted reality, public institutions can forge the bridge between the rule of law and individual conduct necessary to realize equal educational opportunity.

B. The Trinity: Opportunity, Income, and Race

The successful navigation of the American dream is determined by the system of social organization available and the confident exploitation of each available resource to the fullest extent possible. While there are Americans still reluctant to acknowledge the consequences of America’s continued exploitation of certain citizens and persist in the belief that educational access is among the plethora of benefits and rights guaranteed and enjoyed by all Americans, nothing is further from the truth. Only 32% of young adults complete certificate or degree programs. Public educational institutions must confront several important issues.

The opportunity to study is not yet available to all who are qualified. Admission policies and procedures perpetuate the outcomes rooted in inequality and principles of exclusion. The cost of post secondary education and the availability of financing to fund these costs further impede educational access. Finally there is a complex interaction of intangibles that must be considered. Hard work, institutional receptivity and commitment to student success, use of institutional systems and discretion to gird, insulate, and in some instances redefine the quality and detail of individual student support that are all essential to ultimate success. Opportunity continues to be influenced by income and race.

While the District of Columbia is a diverse city, the limited presence of white residents, persistent federal neglect, and disregard for the diminished quality of

116 Id.
117 SEPARATE AND UNEQUAL, supra note 42, at 8-11.
119 Id.
life and services to citizens speaks volumes about the federal government's commitment, or lack thereof, to equality for black citizens and to the value ascribed to black life. In order for the University to address any of the community's problems, it must combat the institutionalized racism that ravages the decision-making and marginalization of all life in the District. That must include the processes, systems, and actors who govern the city and staff the wide range of University functions. The University is positioned to provide leadership on both the national and local level. It will struggle on both fronts until it confronts and resists the very force that necessitated its creation.

The restoration of the public education system is among the community concerns that should receive the attention and support of the local land-grant institution. Teacher training, facilities restoration, business and education administration, and the strategic management of student access to special education services all represent particularized expertise that the University can extend to District of Columbia Public Schools (DCPS) in a collaborative effort to restore the system. The University is equally well positioned to work with DCPS students and their families. The failure of the public school system to adequately meet the educational needs of the student translates into inadequate college preparation and limited life skills. Only by coordinating needed expertise to address and resolve the various aspects of system failure does a community resource, program, or organization overcome the limitations constraining progress.

In a society steeped in a tradition of "equal justice under law," one might expect citizens to enjoy a different quality of life. Where the experience violates "equal justice under law," legal solutions, statute and orders provide access and a reordering of outcomes. The experience of a large segment of the American population controverts this reasoning and expectation. In this section of the article, we will focus on defining the requisites of educational access and the role that law has played in securing and maintaining that access. We will also identify the factors that a land-grant institution must address to achieve educational access in the millennium, and in a meaningful way. To advance the identification of the factors impeding access and focus our effort to deliver access to those least likely to receive it, we must understand the significance of income, opportunity, and race. A simple demonstration will assist to clarify the nature of the problem.

Cara Edmunds, a strong and healthy six and one-half pound baby girl, is born in America on July 4th. The question of whether she will have access to educational opportunity may be the least of her parents' initial concerns. In fact, several considerations will influence the measure of opportunity that Cara will eventually experience. The marital status of her parent(s), their decision to keep and nurture her, whether her parents work, have insurance or rely in whole or in part on government financial assistance to exist. Such factors will define the
range of causeways open to lead Cara to educational opportunity.\textsuperscript{120} If any of these early screens yield a determination that Cara is poor, dependent on government subsistence, or abused and uninsured, these pathways to opportunity will constrict and become increasingly difficult to traverse.\textsuperscript{121} Any one or more of these descriptors could relegate Cara or her family to membership in a class of citizenship ineffectively covered or protected by the very "government of laws" sworn to protect them.\textsuperscript{122} Thus the routine availability of proper medical screening, qualitative distinctions between private or public education, and the concomitant level of preparedness for post-secondary study further imperils Cara's ability to progress toward and succeed should an opportunity for access to higher education emerge.

Hard work and paying tuition are but two of the ingredients requisite to educational success—or the success that is expected to flow from access to education.\textsuperscript{123} Black students must often confront a less than subtle insistence that their presence is tolerated. Success is likely to be beyond their reach. While there is talk of inclusiveness, there is reluctance to confront and collaborate on individual learning needs and a strategy to effectively maximize potential and mastery of the discipline or program that the student aspires to complete. To the extent that the student survives the program or completes degree requirements, locating appropriate employment presents a further challenge with less than adequate institutional support.\textsuperscript{124}

Even the ability to challenge the legality of administering the social order is controlled by income or access to wealth. The quality of legal services available to those of limited financial means in today's America is questionable. While there is no right to counsel in civil matters, a family like Cara's—one of modest means—is likely to face considerable civil legal difficulty.\textsuperscript{125} Frequently the successful resolution of such difficulty is dependent on the availability of legal representation.\textsuperscript{126} Yet, today's network of representation for the poor has been fatally diminished.\textsuperscript{127}

\begin{itemize}
\item \textsuperscript{121} Id.
\item \textsuperscript{122} Id.
\item \textsuperscript{123} Id.
\item \textsuperscript{125} Deborah M. Weissman, \textit{Law and Largess: Shifting Paradigms of Law for the Poor}, 44 WM. & MARY L. REV. 737, 774 (2002).
\item \textsuperscript{126} Id.
\item \textsuperscript{127} Id. at 751-75.
\end{itemize}
Over the last ten years, funding for legal services to people of modest income has decreased by at least 30%.128 Income guidelines have been altered to limit service eligibility to the poorest of the poor.129 Lobbying, organizing, and appellate representation are among the legal tools that are no longer available through government funded legal assistance programs.130 Both individually and collectively, the poor lack the political muscle needed to command the legislative attention that is essential for resolving discrete issues challenging the poor.131 More often than not, these problems are associated with the lack of financial resources.132 There is no economic or other advantage to use as leverage, and this weakened posture facilitates the withholding of information and assistance by the very government agencies empowered to assist the poor.133 A weakened economic and political posture degenerates into a spiraling decline in the range of outcomes or solutions available to those of lesser means.134 This only exacerbates the devastation and destabilizing effects of the economic limitations that taint every aspect of daily living. Housing, transportation, education, employment, healthcare, and general well-being are all influenced by income.135

However, the issue of race remains. Race permeates every fiber of American life.136 It continues to serve as a blatant, irrefutable reminder of a national refusal to address and resolve the inconsistency in our aspiration and legal promise of equality and justice for all.137 While popular debate characterizes racial discrimination –and importantly racism- as a Black, Hispanic, Asian, or Native American issue, it is first and foremost a white issue.138

The system of race-based disadvantage enforced against black and other racial minorities effectively constrains the liberty and lives of all but a small group of elite whites.139 The greater portion of the American population is economically and socially oppressed by an elaborate system of gates and chains that obligate the guards to abandon their freedom and ensure that minorities forfeit any conduct or experience that could result in affirmative change in the system of advan-

128 Id. at 760.
129 Id.
131 Id. at 751.
132 Id.
133 Id.
134 Id.
136 Id.
137 Id.
138 Id.
139 Id.
tage that racism underwrites. Essential to the survival of this system of race-based advantage is a resistant, aggressive manipulation of fear and resentment. As a nation we have refused to address national priorities like health care, adequacy of an hourly wage, and the quality of public education because the faces of those problems have disproportionately been portrayed in colors: black, brown, yellow, and red. The concomitant neglect of national social and economic problems, masked by the manipulation of race, leach life force—e.g., American potential—at a life-threatening rate. Access to health care, quality education, housing, and general economic welfare are among the national concerns overlooked in exchange for a racial status quo.

It takes social conduct to preserve the status quo. Whites tolerate the disproportionate exclusion of people of color from positions of authority and influence, education, economic power, and enjoyment of quality health care to protect and maintain their advantage and status in the society. Whites struggle to retain the place of advantage even when there is no quantifiable benefit other than keeping a person of color outside of the system or program. People of color also contribute to preserving the status quo. Disconnected from and oblivious to the value and humanity of other people of color who have experienced opportunity, or loyalty to a white advantaged social order in exchange for individual recognition or need these people pay the price of silence in the face of wrongdoing. They defer to bad actors, or do the bad actor's bidding in exchange for personal or professional status. Whether Cara is white or a person of color, her opportunity to experience the American dream will reflect a shadow of what her potential suggests. Up to this point we must question whether Cara has any real hope of opportunity or access. It might be helpful to see whether the rule of law improves the range of potential outcomes.

C. Creating an Environment Where Access and Potential Yield Progress

On evaluating the work done in urban communities, scholars have discovered that the tools we utilize to quantify and describe how we perceive the community and planned intervention, determine the value assigned to the project, and therefore influence how we see the community and ultimately view the people.

141 Id.
142 Id.
144 Id.
145 Id.
146 Id.
order to evaluate the proficiency of different units, the performance of each must be measured, one against the other, the same work under the same conditions to perform the same or similar work. People, unlike machines, reach their potential when encouraged to accept and invest all that they are, and when they are encouraged to see themselves as someone valuable and capable of great things. Mentoring, inculcating values and inspiring the student to commit to something greater than himself are indicia that unrestrained growth and nurture have occurred. Changed people beget change or innovation. Flexibility and openness to change the institution and how we teach must be a tool that we willingly use to assist students. Though it is likely that the effort to embrace change on this level will be resisted, preparing the millennium student will require different methodologies. Culturally sensitive intervention into community collaborations will be handled best by professionals committed to an integrated notion of justice and social imperative. An integrated notion of justice synthesizes the cultural experience and morals of the broader society. Unlike contemporary institutions, justice must amalgamate the morals and priorities of whites and non-whites alike. The burden and focus must shift from the familiar and habitual, to honest inclusion. The society must be allowed to experience the full range of human talent and moral strength available as a natural byproduct of a truly diverse and fully engaged polity. Such change would naturally include people of color and other communities in American society who have been significantly disadvantaged by limited access to the full privileges of citizenship.

If focus on a community is limited to areas of dysfunction and little to no attention is given to the strengths and favorable accomplishments of the residents, the community is then only seen as distressed. Similarly, when an ethnic or racial group is featured in the media as violent, slow, or indifferent, that perspective influences private and institutional interaction with members of the group. If our efforts to expand educational access are to be successful in the millennium, attitudes, perceptions and processes associated with student services

149 Id.
150 Id.
151 Id.
152 Id.
154 Id.
155 Id.
156 Id.
157 Id.
associated processes must be void of such stereotypes. The failure to extinguish such thinking opens a door to discrimination and stereotyping and the exclusionary politics that indulged the notion that separate could be equal.159

When survival of the nation determined that physical slavery violated the essence of democracy, physical chains were replaced by a social and psychological bondage equally protected and enforced by the written law.160 To end the resulting oppression, an equally deliberate and extensive plan and code of conduct must be instituted. The Author posits that legal education is a crucial, fertile starting place.

III. COMMUNITY SERVICE AND LAW REFORM: THE ROLE OF VISION, PLANNING AND ACTION

A. Qualification to Serve

The quality of leadership engaged in retooling an institution for access is critical to the measure of success possible. It is impossible to motivate, build or improve anything or anyone that is not valued or respected.161 "Valuing assumes tremendous potential ... [I]t means [to] want the best ... to be viewed as capable and intelligent, regardless of background, educational experience and economic status."162 Neither access nor the constituents may be viewed as marginal or unable to contribute to the enterprise.163 If relegated to a place of inferiority or if they are deemed necessary until the institution "can do better," the stakeholder and the work will receive less than a best effort from many involved in the undertaking. The obvious lack of respect transcends speech and will chill any loyalty felt towards the community members.

The leader must understand how inequality manifests in procedures, policy, decision-making, and human interaction. Institutional policies and procedures must be submitted to rigorous review and subjected to the systematic reform necessary to facilitate access. Every aspect of the operation must function in a manner that exemplifies the very experience and benefit that the institution has pledged to provide.164

While a diverse experience and academic training may qualify a variety of people for participation in the enterprise, leadership requires a level of service, integrity and courage uncommon in most people. The leader who would actively pursue access must be prepared to hold faculty, administrative staff, students, community constituents and university co-laborers to a standard of business that

159 Id.
160 Id.
161 Rodriguez, supra note 148, at 2.
162 Rodriguez, supra note 148, at 2.
163 Rodriguez, supra note 148, at 2.
164 Rodriguez, supra note 148, at 2.
will not always be comfortable. Equality dismantles the imbalance of power and advantage that has been so long enjoyed that the advantaged group believes the advantage to be merited. It is this change in advantage that tests both the leader’s resolve and that of people who have routinely enjoyed advantage.\textsuperscript{165}

While it is unlikely that an educational institution would perceive itself as a willing co-conspirator in an endless cycle of repressing people of color, the failure of an educational system to provide access to education sufficient to stimulate the economic and social advancement of previously oppressed citizen groups, demands closer examination. The law school accreditation and ranking processes provide cover for the profession’s continuing failure to address the limited access to the profession for under-represented groups. Access quietly slips beneath the waves while faculty and administrative staff persist passionately in the assertion that “the ABA made us do it” - e.g. resist implementation of admissions process, better suited to improve access to law school and the profession for under-represented groups. In truth, the ABA evaluates whether the system used to facilitate law school admission decisions yields law students able to negotiate the program of study successfully and pass the bar.\textsuperscript{166} Law schools have the opportunity to develop and use alternative screening techniques to evaluate an applicant pool and admit competitive, capable students. Reliance on established systems guarantees predictable outcomes. Where institutional mission embraces the servicing of under-represented groups, there is opportunity and responsibility to develop alternative strategies.\textsuperscript{167} Inveterate institutions less imperiled by the threat of negative accreditation outcomes are also uniquely positioned to advance alternatives to LSAT scores to determine access to legal education.\textsuperscript{168} The community, institution and legal profession all benefit by changing the processes that bring representative groups from the entire community into the law school.

In the course of learning to assess the individual learning capacity and the professional skills potential of a more diverse community, faculty and administration are better prepared to nurture and cultivate potential. The institution’s abil-

\textsuperscript{165} While advantage is often money, employment, or social status, it may also be a level of comfort associated with numerical superiority. Outnumbering the disadvantaged or the person denied access is routine. Retaining numerical superiority preserves cultural patterns and discourages change. See Lenhardt, \textit{supra} note 120, at 816-25.


\textsuperscript{167} The failure to seize the opportunity to advance alternative structures -that would improve access for underrepresented groups- is, at least in part, consistent with the reasoning that made \textit{Bakke} possible. Equality for the underrepresented is undesirable, indeed unconstitutional, if the strategy creates access or opportunity that whites may not seize. For some, there is no circumstance where a person of color should be selected before a white applicant. Strategies to create access are intended to ensure that capable people receive an opportunity to develop their potential. Use of the LSAT to determine law school admission ensures that the access is predictably and overwhelmingly white.

\textsuperscript{168} See Randall, \textit{supra} note 118 at 120-36.
ity to contribute to the community by transforming the problem solving potential of the law school and community residents is intensified. Teaching from a perspective that projects confidence in the student's ability encourages the student to reach more aggressively towards academic excellence.

Finally, leadership must have a vision large enough to cultivate the next generation of leadership for the law school and the broader community. In order to do so, the leader must always choose institutional need over the intellectual and ego satisfaction associated with being in charge. Legacy should provide the framework for the dream. While the growth of the institution will reflect the care and commitment of its leader, the limited perspective of a single person is not large enough to contain, determine or control the institution's ultimate destiny. Flexibility and the willingness to explore new methodologies and patterns of behavior must expand. The institution's need for growth versus personal convenience should determine the length of service.

The institution and community must become the central priority of all who claim commitment to the mission. Students and teaching must receive priority treatment and change.

B. Law Reform and Activism: Conforming the Vision and Mission

"If you want to build change you have to start everywhere at once." Sandra Fugate, Kellogg Foundation Initiative Seeks to Catalyze Change at Land-Grant Institutions, 34 Extension J. 5 (1996) (statement by Margaret Meade). Both the University and School of Law have survived concerted effort to dismantle the organization and its respective programs of study.

In short, administrators and faculty must alter their thinking and outputs. Institutional change poses considerable challenge. Greatest among those challenges are the thinking and individual contribution or conduct of the administrators and faculty. People have a tendency to avoid change, unless they benefit

169 See Randall, supra note 118 at 120-36.
171 Both the University and School of Law have survived concerted effort to dismantle the organization and its respective programs of study.
172 The Author excludes students because students respond to the orientation and structure of the system they find in place when they enter a university or law school. If a student group is encouraged or allowed to believe that they have no obligation to respect female professors, it is not
from the change. Does the curriculum advance knowledge of the subject matter in a way that incorporates or addresses the plight of the local community in any significant manner? Does the presentation and discussion of course materials place the student in a position to evaluate the problem from a perspective other than one typically held by the dominant culture? Are students encouraged to consider ways to influence most appropriate to a just and more diverse society? From an administrative perspective, to what extent has the institution addressed and resolved notions that “white brain power” or control is essential to proper function? To what extent do hiring and other administrative decisions prevent or obstruct institutional access to people and ideas that challenge stagnant thinking and growth, of the institution? To what extent could the institution withstand critical substantive review by anyone other than those in power? To the extent that periodic review discloses the need for reform, changed perspective or a passing of the torch, is it the institution’s interest or the incumbent’s interest that is to be protected at all costs? Genuine dedication anew to the land-grant mission can afford the law school and university an opportunity to move decisively towards a progressive future and innovation in community services. Collaboration among leaders throughout the university is critical and the actualization of this commitment.

The land-grant mission provides a mechanism that facilitates the university and law school operating as synchronized, symbiotic, entity. That is less likely where either or both units perceives the other as a liability or nonessential to success and stature. Connection to the community is integral to an accurate recitation of the responsibility of each unit and the ultimate accountability for the quality and efficacy of service provided. Alignment with the land-grant mission also helps to clarify the respective roles of the Board of Trustees and the District government. Inattention or sabotage by any of the necessary parties diminishes the capacity of the University and its law school to provide quality educational programming and satisfy other community service goals.

unusual to find student response to female professors consistent with the general indifference or disrespect present in the administration and faculty.

173 For a time critics circled above the university, reminding the public that the “idea of a public university” for the District was noble but impractical. The time has come to abandon hope of the university ever succeeding as anything but a community college. At present the current president enjoys much praise for the university effort to reintroduce a community college function at the university. See Editorial, Delay on UDC, WASH. POST, Nov. 9, 1999, at A24. See also Marc Fisher, UDC: Does D.C. Really Need A 4-Year College?, WASH. POST, Apr. 7, 2009, available at http://voices.washingtonpost.com/rawfisher/2009/04/udc_does_dc_really_need_a_4-ye.html; Steven Pearlstein, UDC: Is a School to Retool, WASH. POST, Mar. 5, 2008, at D1.

174 Educational institutions have specific needs uncommon to other city and state agencies. The assignment of staff unfamiliar with and indifferent to those distinctions complicates and or imperils the institutions ability to service students effectively. Such assignments suggest a disrespect for and indifference to those who serve at the university, the mission, and the people most likely to be harmed by inappropriate staffing. Institutional nonperformance or inadequate performance resulting from
C. Combating Community Concerns: The Rest of Public Education, Domestic Violence, and the Elderly

There is much concern for the District's public education system.\textsuperscript{175} In many respects, there has been little progress since segregation was the law of the land.\textsuperscript{176} The District of Columbia's public school system is ninety-five percent black.\textsuperscript{177} The District's population is twenty-two percent white.\textsuperscript{178} Seventeen percent of school age white children attend private schools.\textsuperscript{179} The regular public school program is notably deficient in technical training, foreign language, physical education, and advanced placement courses.\textsuperscript{180}

Facilities are old and in a state of disrepair that reflect long term neglect and deterioration.\textsuperscript{181} Money is budgeted annually to make the needed repairs.\textsuperscript{182} The level of under-funding is nearly fifty percent and extended through FY 2007.\textsuperscript{183} The condition of DCPS facilities is sufficiently poor to constitute a hazard to the health and safety of the children attending such facilities.\textsuperscript{184}

School age children in the District of Columbia live in poverty at a rate three times that of surrounding jurisdictions.\textsuperscript{185} Their needs are greater, and the cost of meeting the need per pupil is higher and unmet.\textsuperscript{186} Special education consumes a disproportionate share of the program as does the transportation budget.\textsuperscript{187} More than fifty percent of the annual special education expenditure funds the cost of private placement and hearings to decide the level of service required.\textsuperscript{188} Expenditure at this level precludes the development of programming within the system to meet ongoing student need.\textsuperscript{189} Until the District develops the capacity

\begin{itemize}
  \item\textsuperscript{176} See \textit{Separate and Unequal}, supra note 42, at 1-16.
  \item\textsuperscript{177} See \textit{Separate and Unequal}, supra note 42, at 1-16.
  \item\textsuperscript{178} See \textit{Separate and Unequal}, supra note 42, at 1-16.
  \item\textsuperscript{179} See \textit{Separate and Unequal}, supra note 42, at 1-16.
  \item\textsuperscript{180} See \textit{Separate and Unequal}, supra note 42, at 1-16.
  \item\textsuperscript{181} See \textit{Separate and Unequal}, supra note 42, at 1-16.
  \item\textsuperscript{182} See \textit{Separate and Unequal}, supra note 42, at 1-16.
  \item\textsuperscript{183} See \textit{Separate and Unequal}, supra note 42, at 1-16.
  \item\textsuperscript{184} See \textit{Separate and Unequal}, supra note 42, at 1-16.
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  \item\textsuperscript{188} See \textit{Separate and Unequal}, supra note 42, at 1-16.
  \item\textsuperscript{189} See \textit{Separate and Unequal}, supra note 42, at 1-16.
\end{itemize}
to consistently educate students successfully within the system, the disproportionate expenditure to support students outside of the system will continue.\textsuperscript{190}

While the discussion of institutional operating systems and administrative structures is abstract, the practical potential reach of service and community need is all too real. Victims of intra-family violence, children in trouble, and the elderly are but three groups in the community in desperate need of service from a new perspective. National medical statistics reported to the U.S. Department of Justice indicate that 4.8 million instances of intimate partner rape and physical assault against American women occur annually.\textsuperscript{191} It is estimated that 2.9 million assaults are perpetrated against men by their intimate partners.\textsuperscript{192} Only one-fifth of all rapes, one-fourth of all physical assaults, and one-half of all stalking are reported to law enforcement authorities.\textsuperscript{193} The social cost of domestic violence include physical injury necessitating expensive medical treatment and follow-up, missed worked and a general decline in the victims sense of well-being.\textsuperscript{194} Because the incidence of domestic violence is so persistent, domestic violence must be treated as a major criminal justice, social, and public health issue.\textsuperscript{195}

Nearly $4.1 billion in direct medical and mental health care costs are attributable to domestic violence.\textsuperscript{196} Approximately $1.8 billion is lost indirectly as wages or lost productivity.\textsuperscript{197} Despite national and state efforts to improve the responsiveness of law enforcement, the cost of the domestic violence continues to soar and the plight of battered victims continues to demand heightened awareness and more improved support. Approximately 1.1 million victims secure protective orders and sixty percent of those orders are violated.\textsuperscript{198} Statistics from an unpublished 2002 report prepared by the Federal Bureau of Investigation documented 1,733 female deaths.\textsuperscript{199} Economic assistance is largely unavailable to support battered victims and their children as they endeavor to relocate away from the bat-

\textsuperscript{190} See Separate and Unequal, supra note 42, at 26-29.
\textsuperscript{192} Id.
\textsuperscript{193} Id. at 8.
\textsuperscript{194} Id. at 57.
\textsuperscript{195} Id. at 55-57.
\textsuperscript{197} Id.
\textsuperscript{198} Id. at 54.
Land-Grant Universities and Access in the Millennium

Many victims do not consider the justice system a reliable source of assistance or protection. Finally, civil damages are generally unavailable to battered victims to support education retraining and other services essential to rebuild their lives.

There is comparable need for land-grant support in yet another segment of community - the aging. While longevity holds out a promise or opportunity to enjoy the experience and wisdom gleaned throughout a life in service to society, it also subjects the survivor to an increased opportunity to experience declining health and marginal care dispensed at the hands of a deteriorating health care system. The living will and advance directive pose partial solutions for the health organizations interacting with the elderly, critically ill, and assorted caregivers or surrogates brandishing such documents. However, the elderly or critically ill population often faces a special challenge. The very organizations available to support their special or health care needs are often reluctant or indifferent to treat the very conditions which plague them. In a culture openly hostile to difference and intolerant of cosmetic imperfection and limitations associated with age, potential plaintiffs must question how and whether the civil system available to younger plaintiffs will afford them and their families comparable levels of protection against, and compensation for, civil harm.

Housing poses an equally daunting challenge for the District's elderly. The District's senior and infirm population is on the rise. The District's affordable housing stock has not kept pace with need. At present, some of the elderly live alone in their own dwellings and a collection of alternative housing options. There are approximately eighteen to twenty District of Columbia licensed nurs-

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201 See Tjaden, supra note 191.

202 Tjaden, supra note 191, at 7.

203 See generally The Dist. of Columbia Long Term Care Ombudsman Program, Broken Promises II: An Assessment of the Dist. of Columbia's Initiatives to Improve Quality of Care in Nursing Facilities 7-14 (2006) [hereinafter Broken Promises II].

204 Id.

ing homes, thirteen assisted living facilities, and assorted private board facilities.\textsuperscript{206} While nursing facilities have been regulated for years, the District Council has only promulgated regulations for assisted living facilities within the last two years, in direct response to litigation initiated by the District's Long Term Care Ombudsman.\textsuperscript{207} This is further challenged by the shortage of section eight housing and a proposal to reduce the number of nursing home beds each time a resident is discharged into the community.\textsuperscript{208}

While local housing codes regulate aspects of the private housing stock and federal and District law exists to regulate the conditions maintained in nursing and assisted living facilities, monitoring and enforcement are inadequately staffed, funded, and enforced. The coordination of services for the elderly and availability of a well trained, multi-disciplinary work force to support this population is also lacking. There is no shortage of opportunity for the school of law and university to provide, leadership, advocacy, planning and training requisite to transform the life experience and outlook for each of the constituencies described above.

To better serve these constituencies the university and school of law must address basic system and character liabilities. Access and equality must permeate the administration, teaching, and work with the community. All of the processes - whether used in the admission and support students, the selection, develop and retention faculty and senior leadership, or to evaluate and expand academic and service offerings to formerly under-represented and oppressed groups - must reflect renewed commitment to the original mission and adherence to standards and procedures appropriate to support mission specific outcomes. For the law school renewal and reflecting the land-grant mission renews the challenge to develop and perfect alternative admission and teaching methodology to provide comfortable transition from the undergraduate and graduate programs at the university to the school of law for larger numbers of students. For the university


\textsuperscript{208} See BROKEN PROMISES II, supra note 203. Proposed Medicare funding changes contemplate Medicare dollars following residents into the community and not returning to the nursing homes. Two problems have been observed in communities where this approach has been tested. As discharged residents experience relapses or deteriorating health, there are fewer nursing home beds and no funding to expand the capacity to service those in need of nursing care. The more significant problem is the lack of housing and other services to support this population after discharge. It has been predictable that discharged nursing home patients leave nursing homes for less than adequate accommodations. The inadequacy of housing, mental health, and other support services contributes to the need for repeat hospitalization and ultimately discharge to a nursing home bed that no longer exists. States lack the revenue to replace the nursing home beds, and federal dollars are dwindling.
renewal and rededication brings the opportunity to confront its noble past and a great legacy that can only be realized by moving forward as an instrument of community transformation for those under-represented, undervalued in the society. It is time for the law school and university to answer their original call to service without equivocation or apology for the work that must be done and the change, the growth that will follow for all of our constituencies.

**Conclusion**

The genius of the legislation establishing land-grant colleges and universities was and is the mandate to provide a community with access to education, practical training, and community service. For the University of the District of Columbia School of Law the retooling of that mandate provides a unique opportunity for legal educators and administration to align public interest and community service functions with the land-grant function to the benefit of the university, the school of law, and the various populations they are each charged to serve. A revitalized commitment to community and public interest that embraces the land-grant mission refines law school focus on equality in education access and reform in the quality and efficacy of legal service extended to the community.

The land-grant mission poses considerable challenge for any portion of the institution that confuses community visibility with access and improved quality of District resident life. Law schools have contributed sparingly to the representation of African American and other lawyers of color in the profession and concomitantly to the opportunity for equality enjoyed by under-represented groups. There is limited access to the service and membership in the profession because there is limited access to legal education. To the extent that public interest law school or law schools within land-grant institutions avoid or confuse that reality, they perpetuate the inequality and under serve the community. Law reform and legislation alone have proved ineffective to resolve this concern. Rhetoric and disconnected service offerings have been equally limited in resolving this longstanding inconsistency in the fabric of life for America’s under-represented.

The unique nature of these educational entities, if responsive to the millennium call to return to the land-grant origins, can provide the community with innovative renewal and the nation with a model for addressing the needs of under-represented groups. Their unique position affords a compelling opportunity for leadership and self-realization among those under-represented in the community.